

Texas (Mr. CORNYN) were added as cosponsors of S. 2873, a bill to extend the authority of the United States District Court for the Southern District of Iowa to hold court in Rock Island, Illinois.

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2873, *supra*.

S. 2889

At the request of Mr. ALEXANDER, the names of the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. BOND), the Senator from Nebraska (Mr. HAGEL), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. EDWARDS), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Ohio (Mr. DEWINE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Missouri (Mr. TALENT), the Senator from Wyoming (Mr. THOMAS), the Senator from Minnesota (Mr. DAYTON), the Senator from Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. GREGG), the Senator from Oregon (Mr. SMITH) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 2889, a bill to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an endangered species under the Endangered Species Act of 1973, and for other purposes.

S. 2966

At the request of Mr. CRAIG, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2966, a bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase a residential safe storage device for the safe storage of firearms.

S. 2994

At the request of Ms. SNOWE, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Kansas (Mr. BROWNBACK) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2994, a bill to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time.

S. 3000

At the request of Mr. KOHL, his name was added as a cosponsor of S. 3000, a bill to postpone the extension of normal trade relations to the products of Laos.

At the request of Mr. COLEMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 3000, *supra*.

S. CON. RES. 141

At the request of Mr. DOMENICI, the name of the Senator from Mississippi

(Mr. LOTT) was added as a cosponsor of S. Con. Res. 141, a concurrent resolution recognizing the essential role of nuclear power in the national energy policy of the United States and supporting the increased use of nuclear power and the construction and development of new and improved nuclear power generating plants.

S. CON. RES. 148

At the request of Mr. BINGAMAN, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. Con. Res. 148, a concurrent resolution honoring the life and contribution of Yogi Bhaajan, a leader of the Sikhs, and expressing condolences to the Sikh community on his passing.

S. RES. 436

At the request of Mr. REID, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Res. 436, a resolution designating the second Sunday in the month of December 2004 as "National Children's Memorial Day".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND (for himself, Ms. MIKULSKI, Mr. BENNETT, and Mr. HARKIN):

S. 3009. A bill to establish a Division of Food and Agricultural Science within the National Science Foundation and to authorize funding for the support of fundamental agricultural research of the highest quality, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BOND. I rise today to introduce legislation with Senator MIKULSKI, Senator BENNETT, and Senator HARKIN to establish a division of food and agricultural science within the National Science Foundation to support fundamental agricultural research of the highest quality. I present this to begin a critical discussion that I believe we must have over the next several months and perhaps over the next year or so about how we are going to ensure we capitalize on the technology to maximize the benefits and minimize the costs of our agricultural production.

We remain the world leader in food and fiber production. We do it safely and through technology and the hard work of the American farmer. In the past half century, the number of people fed by a single U.S. farm has grown from 19 to 129. We have a tremendously innovative agricultural research program. Our farmers, our farm leaders are on the cutting edge of developing new technology. And we have seen the innovations continue to come down the pike. This has made it possible for one farmer to feed 129 people.

In addition, we export \$60 billion worth of agricultural products, and we do so at less cost and at less harm to the environment than any of our com-

petitors around the world, again, because of new practices, diligence on the part of farmers, and new technology.

In a world that has a decreasing amount of soil available for cultivation, we have a growing population and we still have 800 million children who are hungry or malnourished throughout the world. As some have said: A person who is well fed can have many problems. A person who is hungry has but one problem. Unless we maximize technology and new practices, production will continue to overtax the world's natural resources.

Many people legitimately have raised concerns regarding new diseases and pests and related food safety issues. And they are growing. The leading competitiveness of our U.S. producers is only as solid as our willingness to invest in forward-looking investments and build upon our historic successes.

Now, we also know from past experience that with new technology the doors are being opened to novel new uses of renewable agricultural products in the fields of energy, medicine, and industrial products. In the future, we can make our farm fields and farm animals factories for everyday products, fuels, and medicines in a way that is efficient and better preserves our natural resources. Advances in the life sciences have come about, such as genetics, proteomics, and cell and molecular biology. They are providing the base for new and continuing agricultural innovations.

It was only about a dozen years ago that farmers in Missouri came to me to tell me about the potential that genetic engineering and plant biotechnology had for improving the production of food, and doing so with less impact on the environment, providing more nutritious food. Since that time, I have had a wonderful, continuing education, not in how it works but what it can do.

We know now, for example, that in hungry areas of the world as many as half a million children go blind from vitamin A deficiency, and maybe a million die from vitamin A deficiency. Well, through plant biotechnology, the International Rice Research Institute in the Philippines has developed Golden Rice, taking a gene from the sunflower, a beta-carotene gene, and they enrich the rice. The Golden Rice now has that vitamin A, and that is going to make a significant difference in dealing with malnutrition.

We also know that in many areas of the world, where agricultural production has overtaxed the land, where drought has cut the production, where virus has plagued production, the way we can make farmers self-sufficient, where we can restore the farm economy in many of these countries, is through plant biotechnology.

But this is just the beginning. This legislation I am introducing today is a discussion draft which I hope is going to lay the foundation for tremendous advances in the future.

This legislation stems from findings and recommendations produced by a distinguished group of scientists working on the Agricultural Research, Economics and Education Task Force, which I was honored to be able to include in the 2002 farm bill. The distinguished task force was led by Dr. William H. Danforth, of St. Louis, the brother of our former distinguished colleague, Senator Jack Danforth. Dr. Bill Danforth has a tremendous reputation in science and in education, with a commitment to human welfare and is known worldwide. He was joined by Dr. Nancy Betts, the University of Nebraska; Mr. Michael Bryan, president of BBI International; Dr. Richard Coombe, the Watershed Agricultural Council; Dr. Victor Lechtenbert, Purdue University; Dr. Luis Sequeira, the University of Wisconsin; Dr. Robert Wideman, the University of Arkansas; and Dr. H. Alan Wood, Mississippi State University.

I extend my congratulations and my sincere gratitude to Dr. Danforth and his team for providing the basis and the roadmap to ensure we have the mechanisms in place to solve the problems and capitalize on the opportunities in agricultural research. The full report of the task force can be found at www.ars.usda.gov/research.htm.

In summary, that study concludes that it is absolutely necessary we reinvigorate and forward focus our technology to meet the responsibilities of our time. New investment is critical for the world's consumers, the protection of our natural resources, the standard of living for Americans who labor in rural America, and for the well-being of the hungry people and the needy people throughout the world.

I look forward to pursuing this vision in the 109th Congress. I invite my colleagues who are interested in science and research to review this report, to look at this measure, to join with me and my cosponsors in the next session of Congress to talk about moving forward on what I think will be a tremendous opportunity to improve agriculture and its benefits to all our populations.

Now, I cannot speak for all agricultural groups, but I talked to agricultural leaders of the various commodities, the farm organizations in my State of Missouri. They are very excited about it because these are the people who have been on the leading edge, who have pushed for the new technology, who have pushed for the new research that has enabled them to go from feeding 19 people per farmer a half century ago to feeding 129 people per farmer.

Madam President, this, I hope, will be the start of something really big. So, with that, I send the draft of the legislation to the desk.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "National Food and Agricultural Science Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term "Council" means the Standing Council of Advisors established under section 4(c).

(2) DIRECTOR.—Except as otherwise provided in this Act, the term "Director" means the Director of Food and Agricultural Science.

(3) DIVISION.—The term "Division" means the Division of Food and Agricultural Science established under section 4(a).

(4) FOUNDATION.—The term "Foundation" means the National Science Foundation.

(5) FUNDAMENTAL AGRICULTURAL RESEARCH; FUNDAMENTAL SCIENCE.—The terms "fundamental agricultural research" and "fundamental science" mean fundamental research or science that—

(A) advances the frontiers of knowledge so as to lead to practical results or to further scientific discovery; and

(B) has an effect on agriculture, food, human health, or another purpose of this Act, as described in section 3(b).

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(7) UNITED STATES.—The term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Agricultural Research, Economics, and Education Task Force established under section 7404 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3101 note) conducted an exhaustive review of agricultural research in the United States and evaluated the merits of establishing 1 or more national institutes focused on disciplines important to the progress of food and agricultural science. Consistent with the findings and recommendations of the Agricultural Research, Economics, and Education Task Force, Congress finds the following:

(1) Agriculture in the United States faces critical challenges, including an impending crisis in the food, agricultural, and natural resource systems of the United States. Exotic diseases and pests threaten crops and livestock, obesity has reached epidemic proportions, agriculturally-related environmental degradation is a serious problem for the United States and other parts of the world, certain animal diseases threaten human health, and United States producers of some major crops are no longer the world's lowest cost producers.

(2) In order to meet these critical challenges, it is essential that the Nation ensure that the agricultural innovation that has been so successful in the past continues in the future. Agricultural innovation has resulted in hybrid and higher yielding varieties of basic crops and enhanced the world's food supply by increasing yields on existing acres. Since 1960, the world's population has tripled with no net increase in the amount of land under cultivation. Currently, only 1.5 percent of the population of the United States provides the food and fiber to supply the Nation's needs. Agriculture and agriculture sciences play a major role in maintaining the health and welfare of all people of the United States and in husbanding our land and water, and that role must be expanded.

(3) Fundamental scientific research that leads to understandings of how cells and or-

ganisms work is critical to continued innovation in agriculture in the United States. Such future innovations are dependent on fundamental scientific research, and will be enhanced by ideas and technologies from other fields of science and research.

(4) Opportunities to advance fundamental knowledge of benefit to agriculture in the United States have never been greater. Many of these new opportunities are the result of amazing progress in the life sciences over recent decades, attributable in large part to the provision made by the Federal Government through the National Institutes of Health and the National Science Foundation. New technologies and new concepts have speeded advances in the fields of genetics, cell and molecular biology, and proteomics. Much of this scientific knowledge is ready to be mined for agriculture and food sciences, through a sustained, disciplined research effort at an institute dedicated to this research.

(5) Publicly sponsored research is essential to continued agricultural innovation to mitigate or harmonize the long-term effects of agriculture on the environment, to enhance the long-term sustainability of agriculture, and to improve the public health and welfare.

(6) Competitive, peer-reviewed fundamental agricultural research is best suited to promoting the fundamental research from which breakthrough innovations that agriculture and society require will come.

(7) It is in the national interest to dedicate additional funds on a long-term, ongoing basis to an institute dedicated to funding competitive peer-reviewed grant programs that support and promote the highest caliber of fundamental agricultural research.

(8) The Nation's capacity to be internationally competitive in agriculture is threatened by inadequate investment in research.

(9) To be successful over the long term, grant-receiving institutions must be adequately reimbursed for their costs if they are to pursue the necessary agricultural research.

(10) To meet these challenges, address these needs, and provide for vitally needed agricultural innovation, it is in the national interest to provide sufficient Federal funds over the long term to fund a significant program of fundamental agricultural research through an independent institute.

(b) PURPOSES.—The purposes of the Division established under section 4(a) shall be to ensure that the technological superiority of agriculture in the United States effectively serves the people of the United States in the coming decades, and to support and promote fundamental agricultural research of the highest caliber in order to achieve goals, including the following goals:

(1) Increase the international competitiveness of United States agriculture.

(2) Develop foods that improve health and combat obesity.

(3) Create new and more useful food, fiber, health, medicinal, energy, environmental, and industrial products from plants and animals.

(4) Improve food safety and food security by protecting plants and animals in the United States from insects, diseases, and the threat of bioterrorism.

(5) Enhance agricultural sustainability and improve the environment.

(6) Strengthen the economies of the Nation's rural communities.

(7) Decrease United States dependence on foreign sources of petroleum by developing bio-based fuels and materials from plants.

(8) Strengthen national security by improving the agricultural productivity of subsistence farmers in developing countries to

combat hunger and the political instability that it produces.

(9) Assist in modernizing and revitalizing the Nation's agricultural research facilities at institutions of higher education, independent non-profit research institutions, and consortia of such institutions, through capital investment.

(10) Achieve such other goals and meet such other needs as determined appropriate by the Foundation, the Director, or the Secretary.

SEC. 4. ESTABLISHMENT OF DIVISION.

(a) ESTABLISHMENT.—There is established within the National Science Foundation a Division of Food and Agricultural Science. The Division shall consist of the Council and be administered by a Director of Food and Agricultural Science.

(b) REPORTING AND CONSULTATION.—The Director shall coordinate the research agenda of the Division with the Secretary.

(c) STANDING COUNCIL OF ADVISORS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established in the Division a Standing Council of Advisors composed of 12 highly qualified scientists who are not employed by the Federal Government and 12 stakeholders.

(B) SCIENTISTS.—

(i) APPOINTMENT.—The 12 scientist members of the Council shall be appointed to 4-year staggered terms by the Director of the National Science Foundation, with the consent of the Director of Food and Agricultural Science.

(ii) QUALIFICATIONS.—The persons nominated for appointment as scientist members of the Council shall be—

(I) eminent in the fields of agricultural research, science, or related appropriate fields; and

(II) selected for appointment solely on the basis of established records of distinguished service and to provide representation of the views of agricultural research and scientific leaders in all areas of the Nation.

(C) STAKEHOLDERS.—

(i) APPOINTMENT.—The 12 stakeholder members of the Council shall be appointed to 4-year staggered terms by the Secretary, with the consent of the Director.

(ii) QUALIFICATIONS.—The persons nominated for appointment as stakeholder members of the Council shall—

(I) include distinguished members of the public of the United States, including representatives of farm organizations and industry, and persons knowledgeable about the environment, subsistence agriculture, energy, and human health and disease; and

(II) be selected for appointment so as to provide representation of the views of stakeholder leaders in all areas of the Nation.

(2) DUTIES.—The Council shall assist the Director in establishing the Division's research priorities, and in reviewing, judging, and maintaining the relevance of the programs funded by the Division. The Council shall review all proposals approved by the scientific committees of the Division to ensure that the purposes of this Act and the needs of the Nation are being met.

(3) MEETINGS.—

(A) IN GENERAL.—The Council shall hold periodic meetings in order to—

(i) provide an interface between scientists and stakeholders; and

(ii) ensure that the Division is linking national goals with realistic scientific opportunities.

(B) TIMING.—The meetings shall be held at the call of the Director, or at the call of the Secretary, but not less frequently than annually.

SEC. 5. FUNCTIONS OF DIVISION.

(a) COMPETITIVE RESEARCH.—

(1) IN GENERAL.—The Director shall carry out the purposes of this Act by awarding competitive peer-reviewed grants to support and promote the very highest quality of fundamental agricultural research.

(2) GRANT RECIPIENTS.—The Director shall make grants to fund research proposals submitted by—

(A) individual scientists;

(B) single and multi-institutional research centers; and

(C) entities from the private and public sectors, including researchers in the Department of Agriculture, the Foundation, or other Federal agencies.

(b) COMPLEMENTARY RESEARCH.—The research funded by the Division shall—

(1) supplement and enhance, not supplant, the existing research programs of, or funded by, the Department of Agriculture, the Foundation, and the National Institutes of Health; and

(2) seek to make existing research programs more relevant to United States agriculture, consistent with the purposes of this Act.

(c) GRANT-AWARDING ONLY.—The Division's sole duty shall be to award grants. The Division may not conduct fundamental agricultural research or fundamental science, or operate any laboratories or pilot plants.

(d) PROCEDURES.—The Director shall establish procedures for the peer review, awarding, and administration of grants under this Act, consistent with sound management and the findings and purposes described in section 3.

By Mr. SESSIONS (for himself,
Mr. DURBIN, and Mr. KENNEDY):

S. 3013. A bill to provide for the establishment of a controlled substance monitoring program in each State; to the Committee on Health, Education, Labor, and Pensions.

INTRODUCTION OF THE NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT OF 2004

Mr. KENNEDY. Mr. President, it is a privilege to join Senator SESSIONS, Senator DURBIN and Senator DODD in introducing the "National All Schedules Prescription Electronic Reporting Act." Our goal is to assist States in establishing in electronic databases to monitor the administration of prescription drugs and deal more effectively with the growing national problem of prescription drug abuse.

Our Health Committee listened carefully to the thoughtful concerns and comments of the expert witnesses who testified at our recent hearing on this issue, and we have sought to meet these concerns in our bill.

Over 6 million Americans currently use prescription drugs for non-medical purposes. 31 million adults and adolescents have reported abusing prescription drugs at least once. Since 1992, the number of young adults who abuse prescription pain relievers and other potentially addictive drugs has more than tripled. Prescription drug abuse among youths of age 12 to 17 has increased tenfold.

State efforts to monitor the prescribing of potentially addictive medications can help curb this abuse. Currently, 19 States have such monitoring programs in place, including Massachusetts, and they vary widely in the col-

lection and storage of data and the methods used for protecting privacy, while using the information in the databases to encourage the non-medical use of prescription drugs and reduce their diversion for illegal purposes.

This bill authorizes the Secretary of HHS to award grants to states to establish prescription drug monitoring programs. For States with existing programs, the Secretary can award grants to upgrade their systems, standardize the data collected, and allow its sharing among States. The legislation includes an important provision allowing States with existing programs to receive funding, even if it is not feasible for the States to meet all the conditions required for new programs. The legislation recognizes that existing programs have been designed with the specific needs of each state in mind, and we should not block funding, even if particular programs do not match exactly the template in the bill.

Any such program, however, must include strong safeguards for medical privacy, and must make certain that the database cannot be used to bring improper pressure on physicians to avoid prescribing essential medication for patients in need. The proper treatment of patients in pain, for example, is an enormous medical challenge, and this essential medical mission will be more difficult if patients fear that the privacy of their prescription histories will not be protected, or if physicians begin to look over their shoulders whenever they prescribe needed pain medication. The legislation permits state programs to release data under controlled and limited conditions. It is important to note, however, that States are free to impose even more stringent restrictions on the release of data than those required under our legislation.

We all share the goal of reaching the right balance between the interests of patients, physicians, and law enforcement. Our bill requires that in their grant applications, each State must propose security standards for the electronic databases, including appropriate encryption or other information technology. In their applications, States must also set standards for use of the database, including a description of a process to certify that requests for information are legitimate. The bill also requires the Secretary to provide an analysis of the privacy protections within two years after enactment.

Prescription drug abuse has been increasing every year. Physicians want to treat pain, and law enforcement officials want to stop the flow of prescription drugs from the pharmacies to the streets. A national prescription drug monitoring program will be a valuable resource to achieve both goals. I commend Senator SESSIONS for his leadership on this important health issue, and I look forward to early action by Congress to deal with this serious national problem.

By Mr. McCONNELL (for himself and Mr. LUGAR):

S. 3016. A bill to promote freedom, economic growth, and security in Asia, and for other purposes; to the Committee on Foreign Relations.

Mr. McCONNELL. Mr. President, today I introduce, along with my good friend from Indiana, the "Asia Freedom Act of 2004".

We offer this bill with the full knowledge that it will neither be considered nor voted upon by the Senate Committee on Foreign Relations before the 108th Congress ends. Rather, we intend today's introduction to mark what we hope is the start of broader discussion between our respective offices and the Administration on America's foreign policy toward Asia.

The Act is based on the Freedom Support Act for the Former Soviet Union and provides an integrated and coherent framework for U.S. policy toward North and Southeast Asia. It creates 10 broad development activities for the region—ranging from democracy to security and the environment—and endorses the establishment of a coordinator of assistance to the region at the State Department, and a deputy coordinator at USAID.

The Act defines eligibility requirements for U.S. foreign assistance for central governments in the region based on their respective commitments to, among other things, the advancement of freedom and justice and efforts to crack down on international terrorism. It requires the State Department to judge central governments of countries in the region not by what they say, but rather by the concrete actions they undertake to further democracy, security and stability in the region.

The Act requires a number of annual reports, including a description of democracy building activities conducted by the United States, the European Union, the United Nations and other countries and institutions, and a listing on a country-by-country basis of known political prisoners.

Taking a cue from President Bush's January 12, 2004 proclamation denying current and former corrupt public officials entry into the United States, the Act provides authority for the Secretary of Homeland Security to deny visas to those officials in the region whose actions have had an adverse impact on the advancement of democracy, human rights, the rule of law and economic freedom in the region.

The Act is necessary to ensure that appropriate and continuous attention is paid by the U.S. Congress and the Administration to the march of political and economic freedom across Asia. Much ground has been gained over the past year, particularly with successful presidential and parliamentary elections in Indonesia, but more must be done, whether in Burma, Cambodia or Thailand.

In short, the Asia Freedom Act guarantees America's focus, foreign policy

and foreign assistance are targeted toward an increasingly important region of the world.

Mr President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asia Freedom Act of 2004".

SEC. 2. STATEMENT OF POLICY.

Liberty is a universal and inalienable right, and, in light of the progress of the people of North and South East Asia in achieving political, economic, and legal reforms, the advancement of democracy, human rights, the rule of law, and economic freedom in North and South East Asia is and will remain a central objective of United States foreign policy.

SEC. 3. DEFINITION OF NORTH AND SOUTH EAST ASIA.

In this Act, the term "North and South East Asia" means Burma, Cambodia, the Democratic Republic of Timor-Leste, Hong Kong, Indonesia, Laos, Macau, Malaysia, Mongolia, the People's Republic of China, the Philippines, the Republic of Korea, Singapore, Brunei, Papua New Guinea, the Socialist Republic of Vietnam, Thailand, Taiwan, the Republic of the Fiji Islands, the Independent State of Samoa, the Solomon Islands, the Kingdom of Tonga, Tuvalu, the Republic of Nauru, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Vanuatu, and Tibet.

SEC. 4. PURPOSE.

The purpose of this Act is to promote regional peace and stability in North and South East Asia and enhance the security of the United States by—

- (1) fostering improved living conditions for, and the economic well-being of, the people of North and South East Asia;
- (2) supporting freedom, human rights, and justice in North and South East Asia;
- (3) countering international terrorism and regional narcotics trafficking in North and South East Asia; and
- (4) expanding free markets in North and South East Asia.

SEC. 5. ASSISTANCE FOR NORTH AND SOUTH EAST ASIA.

The President is authorized to provide assistance to North and South East Asia for the following purposes:

- (1) HUMANITARIAN NEEDS.—Meeting humanitarian needs arising from manmade or natural disasters and crises.
- (2) DEMOCRACY, HUMAN RIGHTS, AND THE RULE OF LAW.—Establishing and facilitating democratic and free societies, including by—
 - (A) fostering political, social, and economic pluralism;
 - (B) fostering respect for internationally recognized human rights and the rule of law, including the rights of people with disabilities;
 - (C) encouraging the development of institutions of democratic governance, including electoral, legislative, and judicial processes;
 - (D) fostering the institution and improvement of public administration at the national, intergovernmental, regional, and local levels;
 - (E) assisting in the development of, and providing ongoing support to, grassroots and nongovernmental organizations that promote democracy, the rule of law, human

rights, and accountability and transparency in the political process;

(F) encouraging international exchanges, other forms of public diplomacy, and the use of the Internet to promote greater understanding and appreciation of democracy, the rule of law, human rights, the public policy process, market institutions, and the role of an independent judiciary in democratic societies;

(G) supporting political parties and coalitions that are committed to promoting democracy, human rights, the rule of law, and economic reforms;

(H) fostering the growth of civic organizations that are committed to promoting and defending human rights;

(I) promoting respect for human rights and civil liberties in military and security forces;

(J) promoting the development of effective control by elected civilian officials over, and the development of, a nonpolitical officer corps in military and security forces;

(K) fostering strengthened administration of justice through programs and activities carried out by nongovernmental organizations, civic organizations, and political parties; and

(L) supporting the development and promulgation of laws and regulations that increase accountability and transparency in governance, including asset disclosure for senior public officials and candidates for political office.

(3) FREE AND INDEPENDENT MEDIA.—Developing free and independent media, including—

(A) supporting all forms of independent media reporting, including print, radio, and television;

(B) providing special support for, and public access to, nongovernmental Internet-based sources of information, dissemination, and reporting, including the provision of technical and other support for web-based radio services and the provision of computers and other necessary resources and training related to the Internet;

(C) providing training in journalism, including investigative journalism techniques that educate the public on the costs of corruption; and

(D) establishing exchange programs for journalists, including journalists affiliated with democratic political parties.

(4) FREE MARKET SYSTEMS.—Creating and supporting private enterprise and free market systems based on the principles of private ownership of property, including through support for—

(A) the development of private cooperatives, credit unions, labor unions, and micro-finance lending institutions;

(B) the improvement of the collection and analysis of statistical information;

(C) the reform and restructuring of banking and financial systems;

(D) the protection of intellectual property rights;

(E) the development of protocols and safeguards against money laundering and other illicit financial activities, including those relating to regional terrorism and the production and trafficking of narcotics; and

(F) the promotion of trade and investment.

(5) SECURITY.—Developing professional military and police forces capable of countering terrorism, narcotics, and other illicit activities, and ensuring civilian control and oversight of military and police forces.

(6) SOCIAL PROGRAMS.—Investing in education, health, and other social programs, including for disenfranchised communities.

(7) ENVIRONMENT.—Promoting the sustainable use of natural resources and protecting the environment in both urban and rural areas.

(8) **POLITICAL OPPOSITION.**—Safeguarding and supporting democratic and viable political opposition.

(9) **PARLIAMENTARY EXCHANGES.**—Promoting exchanges between democratic legislators and reformers in North and South East Asia and members of Congress.

(10) **MIGRATION.**—Protecting and caring for refugees, displaced persons, and other migrants, addressing the root causes of migration, and promoting the development of appropriate immigration and emigration laws and procedures.

SEC. 6. COORDINATION OF ASSISTANCE.

(a) **COORDINATOR OF ASSISTANCE.**—

(1) **ESTABLISHMENT OF POSITION.**—Congress strongly urges the President to designate, within the Department of State, a coordinator of assistance, and within the United States Agency for International Development, a deputy coordinator of assistance, to be responsible for—

(A) designing an overall strategy to advance the mutual interests of the United States and North and South East Asia;

(B) ensuring program and policy coordination among agencies of the United States government in carrying out assistance activities under this Act;

(C) pursuing coordination with other countries and international organizations with respect to assistance to North and South East Asia; and

(D) ensuring that United States assistance programs for North and South East Asia are established and carried out in a manner consistent with this Act.

(2) **RANK AND STATUS.**—An individual designated as coordinator of assistance under paragraph (1) shall have the rank and status of ambassador.

(b) **COORDINATION OF ACTIVITIES.**—The coordinator of assistance under subsection (a) shall carry out activities described in that subsection in coordination and consultation with officials as follows:

(1) **EXPORT PROMOTION ACTIVITIES.**—In the case of activities relating to the promotion of exports of United States goods and services to North and South East Asia, the Secretary of Commerce who, in the role of Chair of the Trade Promotion Coordination Committee, shall retain primary responsibility for the coordination of such activities.

(2) **INTERNATIONAL ECONOMIC ACTIVITIES.**—In the case of activities relating to United States participation in international financial institutions, and to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs, with respect to North and South East Asia, the Secretary of the Treasury who, in the role of Chair of the National Advisory Council on International Monetary and Financial Policies and as the United States governor of international financial institutions, shall retain primary responsibility for the coordination of such activities.

(3) **MILLENNIUM CHALLENGE CORPORATION.**—In the case of activities relating to the provision of United States assistance for North and South East Asia through the Millennium Challenge Corporation, the Secretary of State who, in the role of Chair of the Millennium Challenge Corporation, shall retain primary responsibility for the coordination of such activities.

(4) **HIV/AIDS.**—In the case of activities relating to the provision of United States assistance for HIV/AIDS prevention and related activities for North and South East Asia, the Coordinator for United States Government Activities to Combat HIV/AIDS Globally who shall retain primary responsibility for the coordination of such activities.

(5) **TIBET.**—In the case of activities relating to Tibet, the Special Coordinator for Tibetan Issues.

SEC. 7. ELIGIBILITY FOR ASSISTANCE.

(a) **IN GENERAL.**—In carrying out the responsibilities described in section 6, including the providing of assistance, the coordinator of assistance designated under that section shall take into account the extent to which the central governments in North and South East Asia are—

(1) making progress toward, and is committed to the comprehensive implementation of, a democratic system of government based on the rule of law, individual freedoms, and representative government determined by free and fair elections;

(2) making progress toward, and is committed to the comprehensive implementation of, economic reform based on market principles, private ownership, and integration in the global economy, including the implementation of the legal and policy frameworks necessary for such reform (including protection of intellectual property rights and respect for contracts);

(3) respecting internationally recognized human rights, including the rights of minorities and the rights of freedom of religion and of emigration;

(4) denying support for acts of international terrorism and cooperating with the United States to combat international terrorism;

(5) respecting international law and obligations, refraining from the threat of use of force, and demonstrating a commitment to settling disputes peacefully;

(6) cooperating in seeking peaceful resolution of ethnic and regional conflicts;

(7) implementing responsible security policies, including—

(A) reducing military forces and expenditures to a level consistent with legitimate defense requirements;

(B) working to eliminate the proliferation of nuclear, biological, or chemical weapons, and related delivery systems and technologies; and

(C) restraining conventional arms transfers; and

(8) taking constructive actions to protect the international environment, prevent significant transnational pollution, and promote the sustainable use of natural resources.

(b) **DETERMINATION OF INELIGIBILITY.**—

(1) **RESTRICTIONS.**—Except as described under paragraph (2), no funds authorized to be appropriated to carry out the provisions of this Act may be made available for assistance for any central government in North and South East Asia if the Secretary of State determines that such government—

(A) is engaged in a consistent pattern of violations of internationally recognized human rights or international law;

(B) has, on or after the date of the enactment of this Act, knowingly provided financial or other support to terrorist groups, terrorists, or narcotics traffickers; or

(C) has, on or after the date of the enactment of this Act, transferred any material, equipment, or technology that the government knew or had reason to know would be used by any country or international terrorist group to manufacture any weapon of mass destruction, including nuclear, chemical, or biological weapons.

(2) **EXCEPTION.**—The restrictions described under paragraph (1) do not apply to funds made available for the promotion of democracy, human rights, and exchanges.

(c) **OTHER RESTRICTIONS.**—None of the funds authorized to be appropriated by this Act may be made available for assistance for any central government in North and South

East Asia that is otherwise prohibited from receiving such assistance.

(d) **SUSPENSION OR TERMINATION OF ASSISTANCE FOR NATIONAL SECURITY REASONS.**—The Secretary of State may suspend or terminate assistance under this Act in whole or in part to a country or entity in North and South East Asia if the Secretary determines that the country or entity is engaged in activities that are contrary to the national security interests of the United States.

SEC. 8. SECURITY ASSISTANCE.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 23 of the Arms Export Control Act (22 U.S.C. 2763) and section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347) to enhance security in Asia, including in Cambodia, Brunei, the Democratic Republic of Timor-Leste, Indonesia, Malaysia, Mongolia, the Philippines, Singapore, Thailand, and Taiwan.

SEC. 9. INSTITUTE FOR REFORM IN ASIA.

Notwithstanding any other provision of law, there are authorized to be appropriated such sums as may be necessary for assistance for an institute for reform in Asia, which shall be located in Hong Kong, for the purpose of advancing democracy, human rights, and the rule of law in North and South East Asia in cooperation with an indigenous organization in that region that is committed to the principles of freedom and justice.

SEC. 10. ADDITIONAL AUTHORITIES AND LIMITATIONS.

(a) **LAW ENFORCEMENT.**—Notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420), and except as otherwise provided for in this Act, assistance for law enforcement forces under this Act may be provided for police, counterterrorism, and other law enforcement forces in North and South East Asia.

(b) **PROMOTION OF COMPETITIVE ELECTIONS.**—

(1) **IN GENERAL.**—Assistance may be provided under this Act to foreign political parties or organizations for the purpose of increasing competition in elections in countries in North and South East Asia where a nondemocratic, ruling political party controls or exercises significant influence over national or local electoral bodies, print and electronic media, the judiciary, or national and local security forces, including the police and military, to the detriment of a democratic opposition.

(2) **LIMITS ON ASSISTANCE.**—None of the funds provided to a foreign political party or organization pursuant to paragraph (1) may be used as—

(A) a cash grant;

(B) payment for salaries, fees, or honoraria to any candidate, political party leader, or campaign official during the campaign period; or

(C) payment to individuals for the purpose of influencing votes.

(c) **POLITICAL TRANSITIONS.**—The Secretary of State shall make available additional assistance under this Act for countries and entities in North and South East Asia that successfully complete the transition from an authoritarian regime or government to a democratic government.

(d) **TAIWAN AND THE REPUBLIC OF KOREA.**—Amounts made available under this Act for assistance for Taiwan and the Republic of Korea for the purposes of furthering political and legal reforms shall only be made available to the extent that such amounts are matched by funds from sources other than the United States Government.

SEC. 11. ACCOUNTABILITY FOR FUNDS.

Any agency managing and implementing an assistance program for North and South

East Asia under this Act shall maintain an accounting of any funds made available to it for such program.

SEC. 12. ANNUAL REPORTS.

(a) SUMMARY OF ACTIVITIES.—Not later than January 31, 2005, and annually thereafter, the coordinator of assistance designated under section 6 shall submit to the appropriate congressional committees a report containing—

(1) a list of activities undertaken by the Department of State, the United States Agency for International Development, and the Department of the Treasury to advance democracy, human rights, the rule of law, and economic freedom in North and South East Asia;

(2) a description of assistance provided by international financial institutions and countries, including the European Union, the United Nations, Japan, Australia, and New Zealand, to advance democracy, human rights, and the rule of law in North and South East Asia;

(3) an analysis, on a country-by-country basis, of obstacles to the advancement of democracy, human rights, the rule of law, and economic growth and freedom in North and South East Asia, including barriers to increased popular participation in political and economic decisionmaking; and

(4) an analysis of actions undertaken by the Government of the People's Republic of China, including the People's Liberation Army, to exert its political and economic influence throughout the region.

(b) POLITICAL PRISONERS.—Not later than January 31, 2005, and annually thereafter, the Assistant Secretary of State for Democracy, Human Rights, and Labor shall submit to the appropriate congressional committees a report setting forth the names and locations of known political prisoners, on a country-by-country basis, in North and South East Asia.

(c) CHILD SOLDIERS.—Not later than January 31, 2005, and annually thereafter, the coordinator of assistance shall submit to the appropriate congressional committees a report—

(1) describing the use of child soldiers in North and South East Asia; and

(2) detailing the efforts of the United States Government to raise and debate in the United Nations Security Council the issue of the use of child soldiers.

SEC. 13. DENIAL OF VISAS.

(a) IN GENERAL.—The Secretary of Homeland Security may deny visas and entry to the following individuals:

(1) Any public official or former public official, including any military or police official, who has been credibly alleged to have solicited or accepted any article of monetary value or other benefit in exchange for any act or omission in their performance of their public functions, which has had a serious adverse effect on the advancement of democracy, human rights, the rule of law, and economic freedom in North and South East Asia.

(2) Any person whose provision of, or offer to provide, an article of monetary value or other benefit to any public official, including military and police officials, in exchange for any act or omission in the performance of such official's public functions has had a serious adverse effect on democracy, human rights, the rule of law, and economic freedom in North and South East Asia.

(3) Any public official, former public official, or other person who has been credibly alleged to have misappropriated funds or interfered with the judicial, electoral, or other public processes, which has had a serious adverse effect on the advancement of democracy, human rights, the rule of law, and

economic freedom in North and South East Asia.

(4) Any spouse, child, or dependent household member of a person described in paragraph (1), (2), or (3) of this subsection who is the direct beneficiary of any article of monetary value or other benefit obtained by such person.

(b) DATABASE.—The Secretary of State shall maintain and regularly update a database of individuals who may be denied visas under subsection (a).

SEC. 14. SENSE OF CONGRESS ON DEMOCRACY FUNDS.

It is the sense of Congress that any democracy fund established by the United Nations in response to the September 21, 2004, speech by President George W. Bush to the United Nations General Assembly should be known as the "Daw Aung San Suu Kyi Democracy Fund".

SEC. 15. ASSISTANCE AUTHORITIES.

There are authorized to be appropriated for fiscal year 2005 such sums as may be necessary to carry out the purposes of this Act.

SEC. 16. OTHER DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives.

(2) CHILD SOLDIER.—The term "child soldier" means a person below the age of 18 years (unless, under the law applicable to the person, majority is attained earlier) that is part of an armed group affiliated with, or the armed forces of, a national government.

By Mr. GRASSLEY:

S. 3018. A bill to direct the Inspector General of the Department of Justice to submit semi-annual reports regarding settlements relating to false claims and fraud against the Federal Government; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, today I am introducing a bill directing the Inspector General of the Department of Justice to submit semi-annual reports regarding settlements relating to false claims and fraud against the United States.

The False Claims Act, 31 U.S.C. 3729 et seq., is the Government's single most effective program for recouping money improperly obtained from the United States by false claims and fraud. Initially passed during the Civil War at President Abraham Lincoln's request to suppress fraud against the Union Army, the FCA was modernized and updated in 1986. Since President Ronald Reagan signed the 1986 amendments into law, settlements and judgments in FCA cases have exceeded \$13 billion. No other antifraud program of the federal government can match this result.

Despite the significance of these results, the Congress does not have a way to evaluate the performance of the FCA program. While the program, which is overseen by the Civil Division of the Department of Justice, appears to be doing well, it is not known at this time how the program is performing as compared to its potential. What percentage of the various frauds per-

petrated against the United States is recouped in False Claims Act cases? How effectively does DoJ capture the multiple damages and penalties provided for by the act? How quickly does DoJ move FCA cases? How effectively does DoJ use the tools provided to it by the FCA, such as civil investigative demands? How effectively does DoJ use relators and how well does it reward them?

The purpose of this bill is to require the submission of the information that will allow Congress to evaluate of DoJ's performance in managing FCA cases. Thus, under this bill the Department of Justice will be required to describe its settlements of FCA cases. The report to Congress shall include a description of the estimated damages suffered by the United States, the amount recouped, the multiplier used to calculate the settlement amount, the criminal fines collected and whether the defendants were held liable in previous cases. The report will also inform Congress as to whether the defendants have been required to enter into corporate integrity agreements.

In addition, in order to understand how the program is working, the Department of Justice will be required to inform Congress as to whether civil investigative demands were issued. The Department will also be required to provide certain information about the conduct of qui tam cases initiated by whistleblowers. For example, Congress will receive information about the length of time cases are under seal, whether whistleblowers (technically termed "relators") sought a fairness hearing regarding a settlement and what share of the settlement they received. The Congress would also receive information about whether the agency that suffered from the fraud involved participated in the settlement.

In regard to cases involving Medicaid Fraud, the report will provide Congress with the details of how much money was returned to each state participating in the settlement. In a time when many States are struggling with their Medicaid budgets, the Congress needs to know how effectively DoJ is in suppressing Medicaid fraud and returning money to the States.

By Mr. DODD:

S. 3020. A bill to establish protections against compelled disclosure of sources, and news or information, by persons providing services for the news media; to the Committee on the Judiciary.

Mr. DODD. Mr. President, I am going to send a copy of this bill to the desk to be printed in the RECORD. It is not going to be referred to any committees in the waning minutes of this 108th Congress, but I will submit it for the RECORD. My plans are to reintroduce this legislation in January when we reconvene for the 109th Congress.

I thought it might be helpful to have this legislation in the RECORD for my colleagues to review. It is called the Free Speech Protection Act of 2004.

This bill is designed to ensure that the free speech guarantees enshrined in the First to the Constitution will be strong and effective for many generations to come. After all, it is the free flow of news and information to the public on a wide variety of concerns which makes our democracy vibrant and alive.

Indeed, the very design of our democratic institutions is premised in large part upon an informed citizenry that could exercise informed judgments.

As James Madison once observed:

Knowledge will forever govern ignorance: And a people who mean to be their own Governor, must arm themselves with the power that knowledge gives.

Madison and the other Founders of our great Republic understood full well that the best guarantee of a knowledgeable citizenry is a free press and a public free to speak to the press. The press must be free to report on the human condition, the conduct of public officials, matters of business and corporate governance, as well as the strengths and weaknesses of our society and its institutions.

A free press must also be able to access a broad spectrum of views from a wide variety of sources. Once individuals deliberate over such information, they are able to make more educated decisions. In addition, they can also more effectively and intelligently participate in matters of public concern. To quote Madison once again:

Popular government without popular information or the means of acquiring it is but a prologue to a farce, or a tragedy, or perhaps both.

In fact, one of the hallmarks of a totalitarian government is that the state controls the press and similar sources of public information. Such regimes are characterized by extreme levels of secrecy and a total lack of transparency. The free flow of information to the public is greatly restricted. Criticism of the government could result in imprisonment or even death.

In recent memory, such regimes existed in Nazi Germany, the Soviet Union, and Saddam Hussein's Iraq, where the press was often used as a tool for propaganda. Unfortunately, there are still a number of governments around the globe today that greatly restrict the flow of news and information to their citizens.

The United States, in its formative years, never chose that path. The Founding Fathers of this great Nation of ours knew the value of a free press because they had often been denied it by their colonial rulers. Repressive measures had long been part of English history in this regard, such as the censorship of published materials and a licensing system whereby nothing could get published without the government's consent.

Our Founding Fathers recognized then that for a society to remain free, it must also allow for divergent views and opinions to be expressed, and for ideas to be openly exchanged. In many

respects, the rights of free speech and a free press protect the government from trampling on the other political and personal liberties all Americans hold so dear.

Freedom of speech and freedom of the press are like the government watchdog that shines a spotlight when other rights are being threatened. Without this, the press becomes an extension of the government and the people know only what the government wants them to know. As Jefferson once commented:

When the press is free and everyone is able to read, all is safe.

Congress cannot afford to stand idly by and allow our sacred First Amendment freedoms to be threatened. Let me be clear. The legislation I submitted to the desk, the Free Speech Protection Act of 2004, is not merely about protecting the press. Instead, this legislation is about consumer protection. It is about openness, debate, the free flow of information and deliberation—the very ideals that the Senate holds so dear.

It is also about ensuring that our constituents, the American citizenry, have access to the knowledge and information they need to make educated decisions and fully participate in our democracy.

Yet these freedoms which we hold so dear are not as safe as they have been in other times in the life of our Nation. They have come under attack by the heavy hand of Government in a manner not seen since the height of the Watergate scandal 30 years ago.

The press today is frequently being subpoenaed to appear in Federal court and threatened with fines and/or imprisonment if they refuse to reveal a confidential source to the prosecutor or attorneys involved in the lawsuit. In some instances, the prosecutor or attorneys might also request the reporter's notes, video outtakes, or other unpublished information.

In recent months, the press has come under intense pressure to reveal the identity of their confidential sources, threatening the public's right to know.

In Providence, RI, WJAR-TV reporter Jim Taricani aired an FBI surveillance tape in 2001 that showed an aide to Mayor Vincent "Buddy" Cianci accepting a bribe from a local businessman. Taricani broke no law in airing the tape, but a special prosecutor was subsequently brought in to investigate who leaked the information. He refused to identify the source and was convicted of criminal contempt yesterday in Federal court. Taricani now faces 6 months in prison when he is sentenced in December.

Perhaps the most alarming instance in recent months of the growing threat to the sacred right to freedom of speech in America is the case of Judith Miller of the New York Times. Last month, a Federal judge held Miller in contempt of court for refusing to name her sources to prosecutors investigating the disclosure to syndicated columnist Robert Novak and to other

journalists of Valerie Plame's identity as a covert CIA agent. Plame's husband, former Ambassador Joseph Wilson, IV, had in a New York Times editorial criticized the Bush administration for claiming that Iraq had tried to buy uranium from Niger.

Unidentified senior administration officials revealed Plame's identity to Robert Novak and other Washington area journalists, allegedly as an act of revenge for Wilson speaking out against President Bush's rationale for invading Iraq.

Mr. Novak then published Plame's identity in a July 2003 column, which prompted an investigation by the Justice Department and the subpoenaing of several journalists before a Federal grand jury, including Judith Miller, Tim Russert of NBC's "Meet the Press," Walter Pincus and Glen Kessler of the Washington Post, and Time magazine reporter Matthew Cooper.

Some of these reporters have talked to the prosecutors after the alleged Government sources signed waivers releasing the journalists from any pledge of confidentiality. New York Times reporter Judith Miller, however, has refused to testify, even under the limited terms of the waiver. As a result, she is being held in contempt of court and could face up to 18 months in jail unless she agrees to testify.

What is so surprising about this case is that Judith Miller never even published an article in the New York Times, or any other newspaper or magazine for that matter, about Valerie Plame. The mere fact that Miller contemplated writing such an article and had conducted interviews for it was enough for the judge to hold her in contempt of court for refusing to name sources.

Currently, 31 States and the District of Columbia have enacted protections for gatherers and disseminators of news and information. They include red States, blue States, Alabama, North Carolina, and Montana, for example.

Why then is there a need for a Federal statute in this area? A strong and uniform Federal law on shielding would provide uniformity and consistency to the patchwork of inconsistent court decisions and State statutes currently in place.

In many instances, whether the disclosure will be compelled and how much information will be disclosed depends upon the particular State in which the journalist is pursuing a story when he or she is subpoenaed. The different potential outcomes affect reporters' practices, the flow of information, the articles written or not written, in various news media. It ultimately impacts the public's ability to learn about matters of interest and importance as well.

The protections that these laws and court rulings provide vary widely in detail and in scope. For example, some States grant nearly complete protection for sources and information, while

others provide little or none. In addition, the protections may differ in their applicability to criminal and/or civil proceedings.

In the Federal court system, for instance, most have interpreted *Branzburg*, a 1972 United States Supreme Court decision, to provide at least qualified news gathering protection—that is, a protection that can be overcome in certain circumstances. A few Federal courts, however, such as the Seventh Circuit, have rejected such protection, or have limited it only to when the subpoenas are being used to harass the press.

For those reasons, I think it is quite clear that a national standard would protect gatherers and disseminators of information from the varying State statutes and their interpretations by State courts. This goal is exactly what the Free Speech Protection Act of 2004 would achieve.

Under the legislation, the protection against compelled disclosure for sources would be absolute. The protection against compelled disclosure of news and information, however, is qualified. That is, an individual involved in gathering news would be required to reveal their unpublished material only under certain circumstances. The legislation requires three criteria to be met before such news or information can be disclosed.

First, the person seeking the news or information must prove by clear and convincing evidence that the news or information is critical or necessary to significant legal issues before a judicial, legislative, or administrative body that has the power to issue a subpoena.

Secondly, the news or information could not be obtained by alternative means. Finally, there is an overriding public interest in the disclosure that must exist.

The legislation I am introducing this evening is a work in progress. Obviously, in the coming weeks I intend to further refine it, and in the 109th Congress to seek out my colleagues' advice and counsel on how we might proceed. I am nevertheless introducing this bill in the closing hours of this Congress because I believe the Senate discussion of this matter is urgent. The public's right to know is under attack. When that happens, all Americans suffer since they are deprived of knowledge and information which affects their lives.

There are countless examples of information that we have received because there have been confidential sources who have come forward. Certainly, we can go back to Watergate, Whitewater, or Iran-Contra, Abu Ghirab—the prison scandal in Iraq—Enron, WorldCom, corporate governance issues, the list is almost endless. Had it not been for confidential sources coming forward and sharing information with a free press that would then share that with the public, if we had to rely exclusively on government press

releases or press conferences, then we might never have learned anything about some of these issues which have been so vitally important to make our Government and our Nation stronger.

I urge my colleagues to take a look at this proposal and urge them to consider it when we return in January. I will reintroduce it again and urge them to support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 3020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Free Speech Protection Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) COVERED PERSON.—The term "covered person" means a person who—

(A) engages in the gathering of news or information; and

(B) has the intent, at the beginning of the process of gathering news or information, to disseminate the news or information to the public.

(2) NEWS OR INFORMATION.—The term "news or information" means written, oral, pictorial, photographic, or electronically recorded information or communication concerning local, national, or worldwide events, or other matters.

(3) NEWS MEDIA.—The term "the news media" means—

(A) a newspaper;

(B) a magazine;

(C) a journal or other periodical;

(D) radio;

(E) television;

(F) any means of disseminating news or information gathered by press associations, news agencies, or wire services (including dissemination to the news media described in subparagraphs (A) through (E)); or

(G) any printed, photographic, mechanical, or electronic means of disseminating news or information to the public.

SEC. 3. COMPELLED DISCLOSURE PROHIBITED.

(a) IN GENERAL.—Except as provided in section 4, no entity of the judicial, legislative, or executive branch of the Federal Government with the power to issue a subpoena or provide other compulsory process shall compel any covered person who is providing or has provided services for the news media to disclose—

(1) the source of any news or information procured by the person, or any information that would tend to identify the source, while providing services for the news media, whether or not the source has been promised confidentiality; or

(2) any news or information procured by the person, while providing services for the news media, that is not itself communicated in the news media, including any—

(A) notes;

(B) outtakes;

(C) photographs or photographic negatives;

(D) video or sound tapes;

(E) film; or

(F) other data, irrespective of its nature, that is not itself communicated in the news media.

(b) SUPERVISORS, EMPLOYERS, AND PERSONS ASSISTING A COVERED PERSON.—The protection from compelled disclosure described in subsection (a) shall apply to a supervisor, employer, or any person assisting a person covered by subsection (a).

(c) RESULT.—Any news or information obtained in violation of the provisions of this

section shall be inadmissible in any action, proceeding, or hearing before any entity of the judicial, legislative, or executive branch of the Federal Government.

SEC. 4. COMPELLED DISCLOSURE PERMITTED.

(a) NEWS OR INFORMATION.—A court may compel disclosure of news or information described in section 3(a)(2) and protected from disclosure under section 3 if the court finds, after providing notice and an opportunity to be heard to the person or entity from whom the news or information is sought, that the party seeking the news or information established by clear and convincing evidence that—

(1) the news or information is critical and necessary to the resolution of a significant legal issue before an entity of the judicial, legislative, or executive branch of the Federal Government that has the power to issue a subpoena;

(2) the news or information could not be obtained by any alternative means; and

(3) there is an overriding public interest in the disclosure.

(b) SOURCE.—A court may not compel disclosure of the source of any news or information described in section 3(a)(1) and protected from disclosure under section 3.

SEC. 5. ACTIVITIES NOT CONSTITUTING A WAIVER.

The publication by the news media, or the dissemination by a person while providing services for the news media, of a source of news or information, or a portion of the news or information, procured in the course of pursuing professional activities shall not constitute a waiver of the protection from compelled disclosure that is described in section 3.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 474—TO EXPRESS SUPPORT FOR THE GOALS OF NATIONAL ADOPTION MONTH BY PROMOTING NATIONAL AWARENESS OF ADOPTION, CELEBRATING CHILDREN AND FAMILIES INVOLVED IN ADOPTION, AND ENCOURAGING AMERICANS TO SECURE SAFETY, PERMANENCY, AND WELL BEING FOR ALL CHILDREN

Ms. LANDRIEU (for herself, Mr. CRAIG, Mr. BOND, Mr. DEWINE, Mr. FITZGERALD, Mr. LEVIN, Mr. SANTORUM, Ms. STABENOW, Ms. MURKOWSKI, Mr. JOHNSON, Mr. BROWNBACK, Mr. NICKLES, Mr. INHOFE, Mr. JEFFORDS, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 474

Whereas there are approximately 532,000 children in the foster care system in the United States, approximately 129,000 of whom are waiting to be adopted;

Whereas the average length of time a child in foster care remains in foster care is almost 3 years;

Whereas for many foster children, the wait for a loving family in which they are nurtured, comforted, and protected is endless;

Whereas every year 25,000 children "age out" of foster care by reaching adulthood without being placed in a permanent home;

Whereas, since 1987, the number of annual adoptions has ranged from 118,000 to 127,000; Whereas approximately 2,100,000 children in the United States live with adoptive parents;